



STATE OF WASHINGTON
PUBLIC EMPLOYMENT RELATIONS COMMISSION

MARVIN L. SCHURKE, Executive Director

112 Henry Street N.E., Suite 300 • Post Office Box 40919 • Olympia, Washington 98504-0919
(360) 570-7300 • Fax: (360) 570 - 7334 • E-mail filings: filing@perc.wa.gov • Website: www.perc.wa.gov

MINUTES

July 13, 2004

The regular meeting of the Public Employment Relations Commission was held at 10:00 a.m. in the Public Employment Relations Commission Conference Room, 112 Henry Street NE, Suite 300, Olympia, Washington. Those present and participating were:

Marilyn Glenn Sayan, Chairperson
Joseph W. Duffy, Commissioner
Pamela G. Bradburn, Commissioner
Marvin L. Schurke, Executive Director
Majel C. Boudia, Confidential Secretary
Dario de la Rosa, Assistant to the Commission
Mark S. Downing, Compliance Officer
Carlos Carrion, Labor Relations Adjudicator/Mediator

Also present and participating:

Eric Nordlof, Public School Employees of Washington
Gladys Burbank, Washington Federation of State Employees

OPEN HOUSE

Prior to and following the meeting, the members of the Commission and the audience toured the new Olympia office facility, which opened for business on June 2, 2004.

MINUTES OF PREVIOUS MEETINGS

The minutes of the meeting held on June 8, 2004, were approved as submitted at this meeting.

REPORT OF THE EXECUTIVE DIRECTOR

1. Mr. Schurke reported that the agency had remarkable statistics for the fiscal year that ended June 30, 2004:



- a. Case intake was above the average of the last five years for each month except June, where the statistics are skewed by the block of cases transferred from the Department of Personnel in June 2002. The 1020 cases filed during the fiscal year was an all-time record for the agency. There were 92 cases filed during the month of June 2004.
- b. Productivity was also remarkable, with 1088 cases closed. There was an increase in case closures beginning in January 2004, after seven new staff members were hired and trained in December 2003. Closures for the past six months have been stellar. There were 96 cases closed in June 2004.
- c. There were 580 cases pending at the end of June. The average number of pending cases is up 6% with the increased volume, but Mr. Schurke noted that the agency is gaining ground in overall productivity, but that we are still very much in a period of transition.
- d. Mark Downing has caught up with the preliminary rulings, so that the agency is compliance with the Administrative Procedure Act (APA) time limit of 30 days for initial case processing.
- e. There were no cases on the "Red List" as of June 30, so that the agency is also in compliance with the APA time limit of issuing decisions within 90 days after the last brief is filed.
- f. We are once again approaching compliance with a third APA time limit, which calls for offering hearing dates within 90 days after a case is filed. We now have enough staff members to provide timely processing of representation cases and high-priority unfair labor practice cases such as blocking charges. We still have some catching up to do before we achieve the "30 days" time target for representation case hearings used by the National Labor Relations Board.
- g. Mr. Schurke added that the state labor relations office and the unions representing state employees have just begun their bargaining of first contracts under the Personnel System Reform Act of 2002. No mediation cases have been filed as yet. One teacher mediation in the Toppenish School District was filed July 2nd.

Chairperson Sayan asked about the types of cases that are closing. Mr. Schurke responded that a large number are unfair labor practice cases, and that a large number of unit clarification cases have been processed. He also noted that a large

number of unfair labor practice cases have settled without going to hearing. There are about 20-25 representation cases currently pending.

Commissioner Bradburn inquired as to when an unfair labor practice case moves out of the "pending" category. Mr. Schurke replied that cases remain "pending" until they are finally closed.

2. The Commission reviewed a letter from Eva Santos, asking that she be listed as the official designee of the Governor for general government cases and some higher education cases. Ms. Santos replaces Gary Moore as Director of the Labor Relations Office within the Office of Financial Management.
3. Mr. Schurke reported that a certification was issued recently for a faculty bargaining unit at Central Washington University (the first under the new statute enacted in 2002), and that a representation case is pending for a faculty bargaining unit at Eastern Washington University.
4. The Commission reviewed the current issue of PERCNews, which features that arbitration services provided by the agency. This newsletter will be included in all out-going mail during the month of July. Mr. Schurke noted that the use of arbitration will be a culture shift for state agencies. There are many options, some of which will impose an added expense to the parties.
5. The Commission reviewed a letter from Field Services Director Doug Nelson of Public School Employees of Washington, requesting a presentation by an agency representative on current hot topics/developments at a PSE staff retreat to be held July 30 in Spokane. Mr. Schurke indicated that he would be away at the Association of Labor Relations Agencies conference that week, but that Ken Latsch would be available.

Commissioner Bradburn asked about the approval process. Mr. Schurke responded that the State Ethics Law precludes accepting travel expenses from clientele, so the Commission decided some time ago that it should approve all travel for clientele conferences on a case-by-case basis.

The Commission unanimously approved the request.

6. The Commission reviewed a note from Megan McCumsey of SEIU Local 925, thanking Robin Romeo for her assistance with a case involving that union and the Port Townsend School District.

7. The Commission reviewed an e-mail message from Luis Moscoso of Washington Public Employees Association, thanking Sally Carpenter for her assistance in a case involving that union and Cascadia Community College.
8. The Commission reviewed the application of David M. Blair for membership on the Dispute Resolution Panel.

Commissioner Bradburn asked about the minimum qualifications for panel applicants. Mr. Schurke responded that the minimum qualifications set forth in the rules are the same as those for Labor Relations Adjudicator/Mediator positions on the agency staff.

The Commission unanimously approved Mr. Blair for membership on the Dispute Resolution Panel.
9. Mr. Schurke reported that former staff member Ronald Meeker sent his regards, along with his regrets that he could not attend the open house.
10. The Commission reviewed a letter sent by Luella Nelson to the Governor of Oregon, resigning her position as a member of the Oregon Employment Relations Board. Mr. Schurke noted that Ms. Nelson had been a member of our Dispute Resolution Panel prior to becoming a (full-time) member of the Oregon board in September 2003, and that the severe budgetary problems suffered by the Oregon agency in recent years contributed to her decision to resign in June 2004. Ms. Nelson will resume her private arbitration practice.

AUDIENCE COMMENTS

Chairperson Sayan invited audience comments.

Ms. Burbank stated that bargaining is taking place, and that her organization is hopeful. She also observed that many issues seem to get resolved once an Assistant Attorney General gets involved.

Mr. Nordlof stated that the universities come from a different world. He also stated that he has enjoyed working with the new staff members that were hired in December.

COMPLIANCE DOCKET

Western Washington University, Case 16507-U-02-4267.

This case was held over to the July meeting, because of a delay in reading the notice into the minutes of a public meeting. Mr.

Nordlof had previously notified Compliance Manager Mark Downing that his client is satisfied with the compliance, and Mr. Nordlof confirmed that report. The Commission unanimously accepted compliance in the matter. The case will now be closed.

COURT DOCKET

There were no new filings to add to the court docket, and no news from the courts to report. Mr. Schurke announced that Mark S. Downing is taking over tracking the court docket and coordination with the Assistant Attorney General assigned to the agency.

COMMISSION DOCKET

Mr. Schurke and Mr. Downing reviewed the history of several rule adoption proposals that were submitted to the agency last year by individual employees, including that: (1) those requests were rejected on the basis that the Supreme Court of the State of Washington had ruled that the Commission has no jurisdiction in union security matters outside of religious-based non-association; and (2) the Commission had authorized the staff to deal with similar requests filed thereafter. Mr. Schurke reported that Rules Coordinator Kenneth Latsch has sent letters responding accordingly to several rule adoption proposals received recently. Those rule adoption proposals will thus be brought to the Commission only if the employees contest the propriety of their dismissal under the earlier precedent.

The Commission docket was reviewed in detail, and the status of each case was discussed.

Whatcom County, Case 17041-U-02-4418.

The Commission denied the request of the union for oral argument. Partially overruling the employer's request that the union's reply brief be stricken, the Commission accepted the union's brief to the extent that it replies to an amicus curiae brief filed in the matter.

Naches Selah Irrigation District, Case 18230-E-04-2929.

Chairperson Sayan asked if anything further had been received on this matter. Mr. Schurke responded that he had replied to the letter from Mr. Lofland once it was made clear that it was limited to a complaint about the conduct of an agency staff member, and had then explained that Sally Iverson's actions were appropriate. Nothing further has been received.

ADJOURNMENT

There being nothing further to come before the Commission, the meeting was then adjourned.

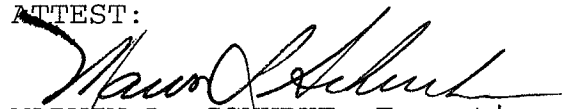
PUBLIC EMPLOYMENT RELATIONS COMMISSION


MARILYN GLENN SAYAN, Chairperson


JOSEPH W. DUFFY, Commissioner


PAMELA G. BRADBURN, Commissioner

ATTEST:


MARVIN L. SCHURKE, Executive Director